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May 28, 1992

EX PARTE OR LATE FILED

SPECIAL COUNSEL
JEROLD L. JACOBS

Donna R. Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: ATV Allotment/Assignment Issues
MM Docket No. 87-268
SUMMARIES OF PERMISSIBLE ORAL
EX PARTE PRESENTATIONS

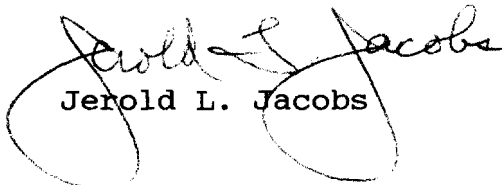
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MAY 29 1992
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Searcy:

Enclosed on behalf of our client, Island Broadcasting Co. ("Island"), are an original and one (1) copy of two memoranda which summarize permissible oral ex parte presentations made by Mr. Richard D. Bogner, a partner of Island, to various Commission personnel today. Copies of the enclosed memoranda were supplied to all of the personnel, including Commissioner Duggan, Office of Commissioners Quello and Marshall, Mass Media Bureau, and Office of Engineering and Technology.

Please direct any communications or inquiries concerning this matter to the undersigned.

Very truly yours,


Jerold L. Jacobs

Enc.

No. of Enclosures 2/1
Date 5/29/92

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ATV Allotment/Assignment Issues (MM Docket No. 87-268)

Summary of Oral Presentation
Richard D. Bogner -- Island Broadcasting Co.

Following is a proposed ATV Table of Allotments for the thirty-four (34) critical NTSC allotments in the New York - New Jersey - Philadelphia PA corridor, based on the following criteria:¹

- 1) minimum ATV to NTSC co-channel spacing 100 miles;
 - 2) adjacent channel spacing goal 55 miles, or co-located;
 - 3) no use of current land mobile adjacent channels;
 - 4) no use of non-commercial reserved channels; and
 - 5) ATV to ATV co-channel spacing goal 125 miles.
- A) For the 12 NTSC allotments in the New York metropolitan area (on World Trade Center/Empire State Building): New York Ch. 2, 4, 5, 7, 11, 25, 31; Newark Ch. 13, 68; New Brunswick Ch. 47; Paterson Ch. 41; Secaucus Ch. 9 -- **ATV TABLE: use Ch. 19, 22, 28, 33, 34, 36, 40, 44, 45, 51, 56, and 64 (in any order).**
 - B) For the 9 NTSC allotments in Philadelphia (at Roxborough): Philadelphia Ch. 3, 6, 10, 17, 29, 35, 57; Wilmington Ch. 12; Burlington Ch. 48 -- **ATV TABLE: use Ch. 14, 26, 30, 32, 38, 42, 46, 55, and 59 (in any order).**
 - C) For the 3 NTSC allotments in Allentown/Bethlehem: Allentown Ch. 39, 69; Bethlehem Ch. 60 -- **ATV TABLE: use Ch. 24, 54, and 67 (in any order).**
 - D) For the 5 NTSC allotments in Northern New Jersey: Little Falls Ch. 50; Trenton Ch. 52; New Brunswick Ch. 58, Newton Ch. 63, W. Milford Ch. 66 -- **ATV TABLE: Use Ch. 53, 43, 27, 18, and 23 (paired in order stated).**
 - E) For the 1 NTSC allotment in Western Long Island: Levittown Ch. 21 -- **ATV TABLE: Use Ch. 17.**
 - F) For the 2 NTSC allotments south of Philadelphia - Camden Ch. 23; Wilmington Ch. 61 -- **ATV TABLE: Use Ch. 66 and 68 (in that order).**
 - G) For the 2 NTSC allotments in Atlantic City NJ Ch. 53 and 62 -- **ATV TABLE: Use Ch. 50 and 63 (in any order).**

¹ This Proposal fully meets all five criteria, except that several adjacent channel spacings are less than 55 miles, with two below about 30 miles, consistent with ATV Notice of Proposed Rulemaking, 6 FCC Rcd 7024, 7030 n.51 (1991): "Engineering techniques" may be used to reduce adjacent channel interference, if any.

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Summary of Oral Presentation
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REQUESTS FOR RELIEF BY LPTV/TRANSLATOR LICENSEES

LPTV and television translator licensees fully realize the technical difficulties faced by the FCC in creating an ATV Table of Allotments. We do not wish to interfere with the efforts now underway, although we seriously question the need for HDTV, and certainly question the logic of publishing a "draft" Table prior to Commission receipt of data concerning such critical matters as separations required and need to protect adjacent channels. What we do want to do at this time is to assure that LPTV and translator licensees are not hurt where there is no real need to do so, simply through ignorance or lack of concern. As Shakespeare might say, "Please don't do what will not enrich you at all, but might make us poor indeed!"

Our single most important request is that the FCC should:

- 1) Allot ATV channels in major metropolitan areas by general NTSC location, not by official "city of license";
- 2) When allotting channel to general NTSC locations, do not use the channels currently occupied by licensed LPTV or translator stations, unless there is no allotment alternative; and

3) If it is necessary to use channels currently occupied by licensed LPTV or translator stations, save allotment of these channels for last.

The New York metropolitan area illustrates the above principles very well. That market has 12 NTSC stations, but only seven are allocated to New York City; the other five are allocated to smaller nearby cities. We urge that 12 ATV channels should be allocated as a block to these 12 stations. Moreover, as few as possible of these 12 stations should require displacement of a licensed LPTV or translator station. Finally, those allotments that do require an LPTV or translator displacement should be given out last. We believe that this procedure will not only let LPTV and translator stations stay on the air the longest, but it will also prevent a "rival" NTSC station from purposely putting a competitive LPTV or translator station off the air. It is obvious that this procedure hurts no one and will prevent gross injustice, yet the FCC has refused so far even to consider such "prioritization" requests.

A second request is that the FCC should publish a completely revised ATV Table of Allotments with corrected co-channel separations, and consideration of adjacent channels, once the Commission has finally chosen an ATV system and is aware of all of the proper technical restraints. For example, it is quite likely that consideration of adjacent channels will be found unnecessary in formulating a final Table, which also could result in greatly

reducing any need to displace LPTV or translator stations. An FCC refusal to issue a completely revised Allotment Table in the future, due to a desire not to "rock the boat," could hurt LPTV and translator stations badly. We believe that issuing such a final revised Table, after all of the referenced technical decisions have been made, will harm no one, and is the proper thing to do!

Third, we request, at the earliest possible time: 1) reduction of NTSC taboos; 2) freezing of new construction of full service NTSC stations; and 3) publishing detailed interference rules to allow displaced LPTV and translator stations to find alternate channels. This request also hurts no ATV applicant or the FCC; it only requires action sooner rather than later.

Finally, we request that the FCC should accept and review with the least possible delay any inputs from LPTV or translator licensees regarding possible allotment changes, displacement requests, and other items which will not interfere with the Commission's ATV plans but could permit the stations to continue to serve the public and to do so with minimal disruption.